

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DIPLOMATIC MAN, INC.,

Plaintiff,

-against-

NIKE, INC.,

Defendant, Counter-  
Claimant and Third-Party  
Plaintiff,

-against-

LaRON JAMES a/k/a JUELZ SANTANA  
and SANTANA'S WORLD,

Third-Party Defendants.

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08 CIV. 0139 (GEL)

ECF Case

REPLY OF DIPLOMATIC  
MAN, INC. TO COUNTER-  
CLAIMS OF NIKE, INC.

Plaintiff Diplomatic Man, Inc. ("Diplomatic Man") by its attorneys Cinque & Cinque, P. C. hereby replies to the counterclaims of defendant and counterclaimant Nike, Inc. as follows:

**FACTUAL BACKGROUND**

1. Denies that it has knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 9, 10, 11 and 12.

2. Denies the portions of paragraphs 6 and 7 which state that the Blaze and Santana Agreements gave Nike an express global license to use the sound recording and

the musical composition in connection with Nike's Air Force 25 marketing campaign, and denies that it has knowledge or information sufficient to form a belief as to the remainder of the allegations in these two paragraphs.

3. Denies the allegations contained in paragraph 8 except admit that "The Second Coming" was featured in Nike's Air Force 25 marketing campaign.

4. Denies the allegations contained in paragraph 13, except admits that Cameron Giles is plaintiff's CEO.

#### **AS TO COUNT I**

5. With respect to paragraph 14, repeats and realleges its responses to paragraphs 1 through 13 of the counterclaims.

6. Denies the allegations contained in paragraphs 15, 16, 17 and 18.

#### **AS TO COUNT II**

7. With respect to paragraph 19, repeats and realleges its responses to paragraphs 1 through 18 of the counterclaims.

8. Denies the allegations contained in paragraphs 20 and 21.

#### **AS TO COUNT III**

9. With respect to paragraph 22, repeats and realleges its responses to paragraphs 1 through 21 of the counterclaims.

10. Denies the allegations contained in paragraphs 23, 25, 27 and 28.

11. Denies that it has knowledge or information sufficient to form a belief as to

the truth of the allegations contained in paragraph 24.

12. With respect to paragraph 26, denies the allegation that Island Def Jam Music Group is James' recording company, and denies that it has knowledge or information sufficient to form a belief as to the remainder of the allegations in this paragraph.

**AS TO COUNT IV**

13. With respect to paragraph 29, repeats and realleges its responses to paragraphs 1 through 26 of the counterclaims.

14. Denies the allegations contained in paragraphs 30, 31 and 32.

**FIRST AFFIRMATIVE DEFENSE AS TO COUNT I**

15. Nike lacks standing to sue.

**SECOND AFFIRMATIVE DEFENSE AS TO COUNT I**

16. Nike has failed to join an indispensable party, Just Blaze.

**FIRST AFFIRMATIVE DEFENSE AS TO COUNT II**

17. Diplomatic Man did not receive any consideration for the alleged express license.

**SECOND AFFIRMATIVE DEFENSE AS TO COUNT II**

18. Santana and/or Blaze did not have the right to license the Sound Recording without Diplomatic Man's express written consent.

**FIRST AFFIRMATIVE DEFENSE AS TO COUNT III**

19. Diplomatic Man did not receive any consideration for the alleged implied

license.

**SECOND AFFIRMATIVE DEFENSE AS TO COUNT III**

20. The Count fails to state a claim for relief, since an exclusive license must be in writing and cannot be implied.

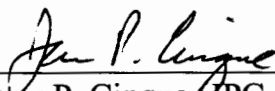
**THIRD AFFIRMATIVE DEFENSE AS TO COUNT III**

21. The relief requested is barred by the statute of frauds.

WHEREFORE, Diplomatic Man respectfully requests judgment dismissing Nike's counterclaims with prejudice and awarding costs and disbursements, including attorneys' fees incurred in connection with this action, and such other relief as the Court deems just and proper.

DATED: NEW YORK, NEW YORK  
MARCH 10, 2008

CINQUE & CINQUE, P. C.

By:   
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